



September 16, 2021

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: State Legislative Status Report

Overview

The Orange County Transportation Authority provides regular updates to the Legislative and Communications Committee on policy issues directly impacting its overall programs, projects, and operations. An update is given on the actions related to the end of session for the State Legislature. This includes status updates and summaries on state budget negotiations related to transportation and on bills the Orange County Transportation Authority has taken positions on, has a particular interest in, and bills related to public meetings.

Recommendation

Receive and file as an information item.

Discussion

State Budget Update

As part of the fiscal year 2021-2022 budget approved by the Legislature and signed by the Governor, several transportation stimulus proposals were included, with significant investments in transit, active transportation and resiliency. Specifically, this included about \$2.5 billion for the Transit and Intercity Rail Capital Program, with \$1 billion to be used for projects benefitting the 2028 Olympic and Paralympic Games in Los Angeles, \$500 million for grade separations, and \$1 billion for priority transit and rail projects. In addition, the budget provided \$500 million for the Active Transportation Program and \$300 million in climate adaptation grants, with \$150 million of that going directly to local entities. However, the state budget included language that would make these funding proposals contingent on additional legislation detailing how the funds would be allocated. In the absence of such legislation by October 11, 2021, these funds would revert to the general fund. The Governor was clear that these funding proposals were

directly linked to the Legislature also authorizing the remaining \$4.2 billion in Proposition 1A (2008) high-speed rail bond funding.

As of the writing of this staff report, agreement had not been reached within the Legislature on these funding proposals. With the Legislature setting a September 10, 2021, adjournment date, it is unlikely any of the funding will move forward this year, with negotiations to resume when the Legislature returns next year.

End of Session Update

The Legislature has until September 10, 2021, to approve legislation to be submitted to Governor Newsom. The Governor will have until October 10, 2021 to sign or veto bills that the Legislature passed. At the time of the writing this staff report, several bills of which the Orange County Transportation Authority (OCTA) had taken position remained active or were already signed into law. Below is the status of those bills:

Bills with an OCTA Position

AB 1499 (Daly, D-Anaheim): Transportation: Design-Build: Highways

Position: Support

Status: Pending with Governor for Signature

In 2013, OCTA sponsored AB 401 (Chapter 586, Statutes of 2013) to expand the use of the design-build procurement method. Specifically, AB 401 authorized unlimited use of design-build authority for state highway projects done by regional transportation agencies and authorized the California Department of Transportation (Caltrans) to utilize design-build for up to ten projects. The authority currently sunsets on January 1, 2024. AB 1499 (Daly, D-Anaheim) seeks to extend the authority until January 1, 2034. Since the enactment of AB 401, several highway projects have been eligible to utilize the design-build authority, including the Interstate 405 Improvement project, and projects undertaken by the Riverside County Transportation Commission and Caltrans. Although OCTA does not have current projects planned to utilize this procurement method, OCTA believes the design-build authority is a valuable option for future consideration.

SB 339 (Wiener, D-San Francisco): Vehicles: Road Usage Charge Pilot Program

Position: Support

Status: Pending with Governor for Signature

In 2014, the Legislature approved SB 1077 (Chapter 835, Statutes of 2014), which required the California Transportation Commission (CTC) to establish a Road Usage Charge Technical Advisory Committee (RUC TAC). This committee was initially tasked with implementing a pilot program to evaluate a

mileage-based revenue collection as an alternative to the gasoline tax funding source currently in place. SB 339 (Wiener, D-San Francisco) would extend the responsibilities of the RUC TAC, until January 1, 2027, and directs them to make recommendations for the design of a completely voluntary pilot program to test revenue collection, with an implementation date of January 1, 2023. Following their recommendations, the California State Transportation Agency (CalSTA) will work with other relevant state agencies to create the pilot program. CalSTA, working with the CTC, must submit to the Legislature and appropriate policy and fiscal committees one report by July 1, 2024, related to the interim status of the program, and then a final report, by December 31, 2026, describing the findings from the pilot. As a transportation agency funding and planning the transportation infrastructure in Orange County, it is essential that there be a reliable and equitable, long-term funding source to deliver transportation improvements and services.

SB 640 (Becker, D-San Mateo): Transportation Financing: Jointly Proposed Projects

Position: Support

Status: Signed by the Governor

SB 1 (Chapter 5, Statutes of 2017) created the Road Maintenance and Rehabilitation Account, a percentage of which is continuously appropriated to cities and counties on a formula basis under the Local Streets and Roads Program (LSR), for use on road rehabilitation, safety, and maintenance projects. SB 640 (Becker, D-San Mateo) authorizes cities and counties to propose projects to be jointly funded by the cities and counties' apportionments of LSR funds. While current law does not explicitly prohibit eligible entities from pooling LSR resources, the CTC allocates funding to each individual entity, and each LSR recipient must separately report to the CTC on how the LSR funds are spent. As a result, cross-jurisdictional LSR improvements must be split into separate projects. SB 640 would streamline the process for jointly funded projects so that neighboring localities can collaborate most effectively to deliver LSR improvements.

SB 790 (Stern, D-Calabasas): Wildlife connectivity actions: compensatory mitigation credits

Position: Support

Status: Pending on Senate Floor

In 2017, AB 1282 (Chapter 643, Statutes of 2017), a bill supported by OCTA, established a Transportation Permitting Task Force and required a report to the State Legislature on recommendations for permitting reform to advance transportation projects. SB 790 (Stern, D-Calabasas) allows the California Department of Fish and Wildlife to approve compensatory mitigation credits for wildlife connectivity actions taken under the conservation and mitigation banking program or the regional conservation investment strategy program. SB 790

promotes the concept of advanced environmental mitigation, complementing the work OCTA is already undertaking. If enacted, SB 790 would allow OCTA to work with Caltrans on potential wildlife connectivity improvements as part of transportation projects and use any mitigation credit from those improvements to help mitigate environmental impacts from future transportation projects

Bills Pending Without an OCTA Position

The following bills OCTA did not take a position on, but are of interest and may have impacts to OCTA projects, programs, or operations upon implementation:

AB 1147 (Friedman, D-Glendale): Regional transportation plan: Active Transportation Program

Status: Pending with Governor for Signature

In 2008, SB 375 (Chapter 728, Statutes of 2008) was enacted and requires metropolitan planning organizations (MPO) like the Southern California Association of Governments, to develop a sustainable communities strategy (SCS) as part of their regional transportation plan, that demonstrates the ability to meet regional greenhouse gas (GHG) emission reduction targets. AB 1147 (Friedman, D-Glendale) would make several changes to the SB 375 process. AB 1147 would expand the scope of the Strategic Growth Council's (SGC) report on the California Transportation Plan to include a discussion of fiscal constraints on SCS implementation, barriers to achieving SB 375 GHG emission reduction targets, the unintended consequences of strategies intended to reduce vehicle miles traveled, and recommendations on tools and resources necessary to help SCS strategies achieve state goals. The bill language directs this report to consider the roles that the State, MPOs, regional transportation agencies, and localities play in SCS implementation, including mandatory stakeholder working groups on the subject. In addition, AB 1147 would also alter the statutory requirements of the report produced every four years by the California Air Resources Board (CARB) on the progress MPOs are making in reducing GHG emissions via the SB 375 process. Specifically, the bill would require that CARB's report address data-supported metrics for strategies used to meet GHG targets, best practices and challenges faced by MPOs in meeting GHG reduction targets, and the progress of entities identified in CARB's Climate Change Scoping Plan in contributing toward GHG reduction targets.

AB 1147 would also require local jurisdictions to report to the MPO on actions they have taken to implement or be consistent with the regional SCS and identify barriers to further implementation. In addition, the bill would require local jurisdictions to work with the MPO if the MPO concludes that a land use decision or transportation project interferes with the region's achievement of its GHG emissions reduction targets. AB 1147 further requires the Governor's Office of Planning and Research to develop guidance for establishing "15-minute communities," which would be defined as a city or county unincorporated area

where every resident has access to essential services within a 15- minute bicycle ride or public transit ride.

OCTA staff have worked extensively with stakeholders to inform this legislative effort to ensure it maintains a flexible, bottoms-up approach to transportation planning while still maintaining the goals created in SB 375. Through this effort, the author did secure \$600 million through the budget process in order to aid in the planning and implementing of projects in the SCS that will reduce regional GHG emissions. The process for creating guidelines for these funds is just beginning, with guidelines being developed by the California Department of Housing and Community Development, and the MPO for each region administering the regional funding allocations.

SB 674 (Durazo, D-Los Angeles): Public contracts: workforce development: covered public contracts

Status: Pending on Assembly Floor

Beginning December 1, 2022, SB 674 (Durazo, D-Los Angeles) would require a California Jobs Plan Program or a United States Jobs Plan Program be submitted by an applicant for a transportation infrastructure-related public contract over \$10 million, administered by the Department of General Services, Caltrans, and local school districts. Contracts related to construction or design are exempt. Local transportation agencies may also choose to require the submittals of these forms. The California Labor and Workforce Development Agency, with input from affected relevant public agencies, must develop guidelines by September 1, 2022. More specifically, this bill would require applicants to include the following details: the minimum number of jobs to be retained and created, wage levels, amounts to be paid for fringe benefits and worker training, training programs for individuals facing barriers to employment, and whether the project results in reduction in GHG, water pollution, or energy consumption. While the most recent amendments to SB 674 addressed many concerns about any required applicability to local transportation agencies, it is anticipated there could still be impacts to those agencies in instances in which the contract has more than \$10 million in funding provided by or through Caltrans. OCTA staff have been involved in stakeholder discussions to ensure that if this legislation were to be signed into law, it would not contradict federal procurement laws or the ability for transportation agencies to receive competitive bids. SB 674 will sunset on January 1, 2028.

SB 726 (Gonzalez, D-Long Beach): Alternative fuel and vehicle technologies: sustainable transportation

Status: Pending on Assembly Floor

SB 726 (Gonzalez, D-Long Beach) has two primary elements concerning sustainable transportation. The first element charges the SGC to meet twice a year with relevant state agencies and regional entities, including representatives

from two air districts and two MPOs or regional transportation planning agencies, to coordinate on sustainable transportation strategies, like the State's goal to transition to zero-emission vehicles, in order to minimize duplication of efforts and better promote collaboration between agencies. The state agencies and regional entities would need to develop a summary of these actions every year beginning in 2023. The second element of SB 726 would revise California Energy Commission's Clean Transportation Program, formerly known as the Alternative and Renewable Fuel and Vehicle Technology Program. These changes to the program seek to align it with the modern goals and practices of the state relating to GHG emissions, air quality, and clean transportation.

Bills Impacting Brown Act Requirements

The following bills relate to changes to the operation of public meetings and have been of significant discussion this legislative session. It is anticipated there will be further legislation introduced next year to continue making changes to public meeting processes.

AB 339 (Lee, D-Milpitas): Local government: open and public meetings

Position: Neutral (previously an "oppose unless amended" position)

Status: Pending on the Senate Floor

AB 339 (Lee, D-Milpitas) would require open and public meetings of city councils and boards of supervisors with populations greater than 250,000 to include an opportunity for all persons to attend and make public comment via a two-way telephonic option or a two-way internet-based service option. The city council or county board of supervisors must also continue to provide video streaming if it had been using that technology as of June 15, 2021. AB 339 further requires open and public meetings to provide in-person public comment unless there are circumstances during a declared state or local emergency that prohibit in-person meetings. These provisions would sunset on December 31, 2023. This bill, as currently drafted, would not apply to OCTA.

AB 361 (Rivas, D-Salinas): Open meetings: local agencies: teleconferences

Position: None

Status: Pending on the Senate Floor

Prior to Executive Orders N-29-20 and N-08-21, meetings subject to the Brown Act could only be held via teleconference if certain requirements were met. Due to the pandemic, most of these requirements were suspended and public agencies were allowed to move to entirely virtual meetings without in-person attendance. AB 361 (Rivas, D-Salinas) largely seeks to codify the Governor's Executive Orders to provide additional flexibility to public agencies during times of proclaimed emergency. There are, however, requirements a legislative body must meet in order to conduct meetings virtually such as suspending action on a meeting if there is a disruption in technology, renewing

the need to meet virtually every 30 days, and providing the public with an ability to make public comment in real time. The bill includes an urgency clause; therefore, if it is approved by the Legislature, it will become effective upon the Governor's signature. AB 361 will sunset on January 1, 2024.

SB 274 (Wieckowski, D-Fremont): Local government meetings: agenda and documents.

Position: Neutral (previously an "oppose unless amended" position)

Status: Pending with Governor for Signature

SB 274 (Wieckowski, D-Fremont) would require a local agency with an internet website, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if someone requests that the items be delivered by email. Upon a determination that it is technologically infeasible to email such a link, this legislation would then require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet.

Summary

An update is provided on transportation components of the state budget and relevant legislation that the Orange County Transportation Authority has either taken a position on or is expected to have some impacts on its overall operations, programs, or projects.

Attachment

None.

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